

ASSEMBLY BILL

No. 20

Introduced by Assembly Member Halderman

December 6, 2010

An act to add Section 6106.4 to the Business and Professions Code, relating to construction defects.

LEGISLATIVE COUNSEL'S DIGEST

AB 20, as introduced, Halderman. Construction defect actions: attorneys.

Existing law, applicable to residences originally sold on or after January 1, 2003, specifies the rights and requirements of a homeowner to bring an action for construction defects. Existing law also requires an association that manages a common interest development to follow a certain procedure when filing a claim for defects in the design or construction of the development, as specified. Existing law requires sellers of real property to disclose certain facts concerning the property.

This bill would require an attorney who solicits or consults with a client or potential client for purposes of filing a residential construction defect action to provide certain written information to the client, including a description of a seller's duty to disclose certain facts concerning real property, as specified. The bill would specify that a failure to comply with this requirement constitutes cause for professional discipline.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 6106.4 is added to the Business and Professions Code, to read:

6106.4. (a) An attorney who solicits or consults with a client or potential client for purposes of filing an action for defects in the design or construction of an improvement to residential real property shall, at the time of the solicitation or consultation, provide the client or potential client with a written notice that includes, but is not limited to, all of the following information:

(1) There is no guarantee of financial recovery from the action.

(2) Any funds recovered from the action may first be used to satisfy liens on the property.

(3) A description of the responsibility of a seller of real property to disclose facts materially affecting the value or desirability of the property. This description shall explain the particular disclosures required under Section 1102.6 of the Civil Code, including, but not limited to, a seller's duty to disclose any lawsuits by or against the seller threatening to or affecting the property. This paragraph shall not apply where the client or potential client is an association, as defined in subdivision (a) of Section 1351 of the Civil Code.

(4) A description of the disclosures that the client is required to make to association members under Chapter 9 (commencing with Section 1375) of Title 6 of Part 4 of Division 2 of the Civil Code. This paragraph shall only apply where the client or potential client is an association, as defined in subdivision (a) of Section 1351 of the Civil Code.

(b) It shall constitute cause for the imposition of discipline of an attorney within the meaning of this chapter for an attorney to fail to comply with this section.

(c) For purposes of this section, "action for defects in the design or construction of an improvement to residential real property" includes, but is not limited to, an action subject to Title 7 (commencing with Section 895) of Part 2 of Division 2 of the Civil Code and an action described in Section 1375 of the Civil Code.

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